



Town of Moultonborough Zoning Board of Adjustment

Notice of Decision

Request for Variance

Sixteen Clearwater Point Road Realty Trust

Laurie Anne Tocco-Burns Trustee

Map 174, Lot 64

April 21, 2016

Applicant: Sixteen Clearwater Point Road Realty Trust
Laurie Anne Tocco-Burns Trustee
117 Johnson Woods Drive
Reading, MA 01867

Location: 16 Clearwater Point Road, Moultonborough, NH (Tax Map 174, Lot 64)

On April 20, 2016, the Zoning Board of Adjustment of the Town of Moultonborough opened a public hearing on the application of Sixteen Clearwater Point Road Realty Trust (hereinafter referred to as the "Applicant" and/or "Owner") to obtain side & waterfront setback variances from MZO Article III, Section B (3) & (4) to permit the construction of a dwelling, decks, porch & garage located 14.7 - ft., 10.6-ft., and 11.4-ft. from both side property lines where 20 ft. is required, and located 25.0-ft. from the reference line where 50-ft. is required on the parcel located in the Residential Agricultural (RA) Zoning District.

Based on the application, testimony given at the hearings, and additional documentation and plan(s), the Board hereby makes the following findings of fact:

- 1) The property is located at 16 Clearwater Point Road, Moultonborough, NH (Tax Map 174, Lot 64).
- 2) Laurie Anne Tocco-Burns is the Trustee for the Sixteen Clearwater Point Road Realty Trust.
- 3) The applicant was represented at the Public Hearing by Dan Ellis of Ames Associates.
- 4) The lot is located in the Residential Agricultural (RA) Zoning District, and the residential use is a use allowed by right in that district.
- 5) The proposal is for the construction of a dwelling, decks, porch & garage located 14.7- ft., 10.6-ft. and 11.4-ft. from both side property lines where 20 ft. is required, and located 25.0-ft. from the reference line where 50-ft. is required.

- 6) Mr. Ellis stated that on March 2nd, 2016, the ZBA granted a variance for the property to permit the construction of a dwelling decks, porch & garage located 14.0- ft., 10.6-ft., 14.7-ft., and 8.0-ft. from both side property lines.
- 7) This request for an amended variance to shift the proposed dwelling slightly to the north east, with the lakefront setback remaining the same as the prior plan was presented asking that if the amended request be granted it would supersede the March 2nd variance approval.
- 8) The board was in receipt of letters from abutters to the south east and north east stating they were in favor of the revised plan submitted with request to amend the prior variance as presented on the revised plan presented at the public hearing on April 20th, 2016.
- 9) The Chairman stated for the record that all prior original justifications used for the March 2nd variance approval will stay the same for the amendment.
- 10) Granting the Variances would not be contrary to the public interest as the proposed construction will not alter the essential character of the neighborhood because it would be similar to the other dwellings in the neighborhood, improve water quality through best practices, improve sight lines to the lake for abutters, and most importantly, not change the intent of the ordinance for setbacks which is adequate provision of light and air between buildings.
- 11) Granting the Variances would be consistent with the spirit of the Ordinance because the proposed construction will not alter the essential character of the neighborhood because it would be similar to the other dwellings in the neighborhood, improve water quality through best practices, improve sight lines to the lake for abutters, and most importantly, not change the intent of the ordinance for setbacks which is adequate provision of light and air between buildings.
- 12) By granting the Variances, substantial justice would be done because there is no public benefit to be gained by requiring that a triangular-shaped, unreasonable, needlessly expensive dwelling be constructed that stays within the small triangular building envelope on the lot, while the loss to the applicant would be great.
- 13) Granting the Variances would not diminish the value of surrounding properties as the proposed new dwelling with deck and garage will increase the value of the subject property and thereby increase neighborhood valuations.
- 14) There is an unnecessary hardship owing to special conditions of the property that distinguishes it from other properties in the area because the lot is a long narrow triangle in shape, and even though it would not be allowed to be created today because of today's requirements for larger radius cul-de-sacs, it is a lot of record along with all the other lots in the neighborhood. The lot shape forces owners to construct a triangular-shaped dwelling structure in order to meet the setback requirements of today's zoning ordinance that would be unreasonable and untenable.
- 15) On April 20, 2016, the Zoning Board of Adjustment voted by a vote of five (5) in favor (Stephens, Nolin, Bickford, St. Peter, Jenny) and none (0) opposed to grant the request for the variance for the construction of a dwelling, decks & garage located 14.0- ft., 10.6-ft., 14.7-ft.,

and 10.0-ft. from both side property lines where 20 ft. is required, and located 25.0-ft. from the reference line where 50-ft. is required, with the following conditions: 1) That a foundation certification be prepared prior to construction; 2) All best management practices be employed to include drip edge filter strips; 3) That the paved driveway be replaced with a permeable driveway to lessen the increase in impermeable area; 4) The approved shore land permit be in line with this approval and be submitted with the building permit application; 5) This Notice of Decision shall be recorded at the Carroll County Registry of Deeds, and further to close the Public Hearing. They moved to direct Staff to draft a formal Notice of Decision for review and approval for signing at the next meeting.

The Board of Adjustment, on May 4, 2016, approved this formal Notice of Decision language and authorized the Chairman to sign the Notice of Decision and send to the applicant and place same in the case file by a vote of five (5) in favor (Stephens, Nolin, Bickford, DeMeo, Jenny), none (0) opposed.

The decision made to grant the variance on April 20, 2016, shall not take effect until thirty (30) days have elapsed and no request for rehearing has been filed in accordance with RSA 677:2, or that if such request has been filed, it has been dismissed or denied, in accordance with RSA 677:3.



Robert H. Stephens
Chairman, Zoning Board of Adjustment

Date 5-6-16